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EXAMINER

DEMICO, MATTHEW R

ART UNIT PAPER NUMBER

2611

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/524,091

Applicant(s)

CHING ET AL.

Examiner

Matthew R Demicco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed 2/9/04. Claims 1-20 are pending.

Response to Arguments

2. Applicant's arguments filed with respect to Claims 1, 8 and 17 and 18 have been fully considered but they are not persuasive.

Applicant argues that Allen fails to teach, show, or suggest utilization of a plurality of designated control parameters, including uplink parameters, scheduler parameters, and storage parameters established in a central site system for managing/tuning distribution of digital media data including digital advertisements, to a plurality of remote sites. Applicant further argues that the claimed designated control parameters having tunable limits are not inherently taught. The Examiner maintains that Allen inherently teaches such tunable parameters.

Allen discloses a media server (See Figure 2) having a plurality of control parameters, including scheduling parameters (See Figures 15 and 18). Allen further discloses that that server is a computer device such as a Silicon Graphics Challenge server (Col. 29, Lines 15-67). As is well known in the art, computers run software under an operating system, in this case Irix, a UNIX variant. It is inherent that an operating system, such as Irix, allow for a multitude of user-definable parameters that effect the operation and performance of the system. Some such parameters include cache/swap space sizing, memory allocation, network interface card speed and many other advanced

kernel-level and device driver settings pertaining to storage parameters and uplink parameters. Providing a computer-based system with operator-adjustable settings does not constitute a patentable advance in the art. Further, a database, such as the schedule database of Allen (Col. 31, Lines 37-43), which contains scheduling parameters (Col. 33, Lines 35-40), is inherently modifiable such that an operator may make changes to the data as necessary.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 8-9, 13 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,892,535 to Allen et al.

Regarding Claim 1, Allen discloses a computer-based digital media distributor (See Figure 2 and Col 29, Lines 15-67). It is inherent in such a computer-based system that various operating parameters are adjustable. This reads on the claimed tunable control of digital media data transmission (Col. 17, Lines 28-30) comprising a distribution network (Col. 15, Line 15), a central site system (Col. 16, Line 3) utilizing a plurality of designated control parameters (Col. 15, Lines 49-61, Figure 15, Figure 18, Col. 17, Lines 55-60, Col. 19, Lines 45-57 and Col. 23, Lines 12-34) as tunable limits

including uplink parameters, scheduler parameters and storage parameters as for controlling distribution of the media data. Allen further discloses a plurality of remote site servers (Col. 16, Line 5) for receiving digital media data transmissions from the central site server via the distribution network according to the designated control parameters.

Regarding Claim 2, Allen discloses a system as stated above in Claim 1 wherein the plurality of uplink parameters relate to transmission limits (Col. 23, Lines 55-60), value limits (See Figure 15) and time window limits (See Figures 15 and 18).

Regarding Claim 3, Allen discloses a system as stated above in Claim 2 wherein the plurality of uplink parameters further comprises an uplink broadcast interval and an uplink request window (See Figure 18).

Regarding Claim 4, Allen discloses a system as stated above in Claim 1 wherein the plurality of scheduler parameters relate to time window limits (Col. 19, Lines 11-19).

Regarding Claim 5, Allen discloses a system as stated above in Claim 4 wherein the plurality of scheduler parameters further comprises a play-list transmission look-ahead in the form of an inventory check (Col. 41, Lines 7-13). Further, the system of Allen inherently discloses a history retention period parameter as is necessary in any system that provides logging of transactions (Col. 42, Lines 31-64) to prevent an unlimited number of log entries being written to a finite amount of storage.

Regarding Claim 8, Allen discloses a method for controlling distribution of digital media data by a digital media distribution system comprising the use of a central site system to distribute media data to a plurality of remote sites via a network and

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designating a plurality of control parameter values including uplink parameters, scheduler parameters and storage parameters as tunable limits in the central site system for tuning the distribution of data as stated above in Claim 1.

Regarding Claim 9, Allen discloses a method as stated above in Claim 8 wherein designating a plurality of control parameter values further comprises designating parameters related to transmission limits as stated above in Claim 2.

Regarding Claim 13, Allen discloses a method as stated above in Claim 9 wherein designating control parameters related to a transmission limit further comprises an uplink broadcast interval which shows a plurality of intervals t_1 - t_3 , etc. (See Figure 18).

Regarding Claim 17, Allen discloses a method for controlling digital advertisement (Col. 32, Lines 34-36) distribution from a central site to a remote site via a network comprising establishing values for one or more of a set of uplink and storage control parameters in the central site and managing distribution of digital advertisements to the remote sites based on the values wherein the values provide tunable limits as stated above in Claim 1.

Regarding Claim 18, Allen discloses a method for controlling digital advertisement (Col. 32, Lines 34-36) distribution from a central site to a remote site via a network comprising establishing values for one or more of a set of uplink and storage control parameters in the central site and managing distribution of digital advertisements to the remote sites based on the values wherein the values provide tunable limits as stated above in Claim 1. Allen further discloses a play-list transmission look-ahead in the form of an inventory check (Col. 41, Lines 7-13). Further, the system of Allen inherently

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discloses a history retention period parameter as is necessary in any system that provides logging of transactions (Col. 42, Lines 31-64) to prevent an unlimited number of log entries being written to a finite amount of storage.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-7, 10-12, 14-16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of well-known prior art.

Regarding Claims 6, Allen discloses a system as stated above in Claim 1. What is not disclosed, however, is a storage parameter relating to retention period limits. Official Notice is hereby taken that it is well known in the art that retention period limits are necessary in any system that caches or buffers an amount of data in a finite storage environment. Such systems, for example, could be the cache of an operating system or web browser, or a temporary directory for downloaded media content. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Allen with a retention period limit in order to purge old cached content to make room for newer data.

Regarding Claim 7, Allen in view of well-known prior art disclose a system as stated above in Claim 6. Allen further discloses a system wherein the plurality of storage parameters further comprises play-list entries (Col. 32, Line 10-14).

Regarding Claim 10, Allen discloses a method as stated above in Claim 9. Further, Allen in view of well-known prior art discloses designating a plurality of control parameter values further comprising parameters related to retention period limits as stated above in Claim 6.

Regarding Claim 11, Allen in view of the well-known prior art disclose a method as stated above in Claim 10. Allen further discloses designating a plurality of control parameter values related to time window limits (See Figure 18).

Regarding Claim 12, Allen in view of the well-known prior art disclose a method as stated above in Claim 11. Allen further discloses designating a plurality of control parameter values related to value limits (See Figure 15).

Regarding Claim 14, Allen in view of the well-known prior art disclose a method as stated above in Claim 10. The well-known prior art teaches a history retention period as stated above in Claim 6.

Regarding Claim 15, Allen in view of the well-known prior art disclose a method as stated above in Claim 11. What is not disclosed, however, is designating control parameters related to a time window limit further comprising an uplink forward. Official Notice is hereby taken that it is well known in the art of satellite data transmissions that with certain satellite applications there is a finite time window in which data may be transmitted and therefore it is necessary to specify parameters relating to the duration of

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allowed transmission time (“uplink forward”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the method of Allen in view of the well-known-prior art with an “uplink forward” parameter in order to transmit data only during windows when the satellite is available.

Regarding Claim 16, Allen in view of the well-known prior art disclose a method as stated above in Claim 12. Allen further discloses a method wherein designating control parameters related to a value limit comprise play-list entries (Col. 32, Lines 10-14).

Regarding Claim 19, Allen discloses a method as stated above in Claim 17. Allen further discloses an uplink broadcast interval as stated above in Claim 13. What is not disclosed, however, is establishing values for the uplink control parameters including an uplink request window, uplink forward, and uplink look-ahead. Official Notice is hereby taken that it is well known in the art of satellite transmissions to use such parameters to control the flow of data transfer between a ground station and a satellite. An uplink request window parameter is essential as certain satellite systems are only available for ground-station uplink at certain periods. Because there is a finite time window in which data may be transmitted it is therefore necessary to specify parameters relating to the duration of allowed transmission time (“uplink forward”). This could be a delta time in hours/minutes from the start of the uplink request window or an absolute end time of the window. Further, an uplink look-ahead is well known in the art of satellite transmission, as it is necessary to stage data to be transmitted at the ground station before the satellite transmission window becomes available. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system

of Allen with the well-known prior art in order to be able to control the transmission of data over a satellite upstream.

Regarding Claim 20, Allen discloses a method as stated above in Claim 17. Allen further discloses a play-list with entries as stated above. What is not disclosed, however, is establishing values for the storage control parameters including play-list retention period, purge list retention period or purge list entries. Official Notice is hereby taken that it is well known in the art of video transmission where content is constantly being added and removed from a play-list to utilize a purge list of entries to be removed to make way for new incoming content. Further, it is well known to include a retention period for this content to be removed such that the removal is automatic upon reaching a certain time threshold. This retention period could be part of the play-list or part of the purge list but serves the same function. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the play-list method of Allen with a purge list and a retention period for the play-list and/or purge list in order to automatically remove outdated content in a media storage system to make way for new incoming content as is well known in the art.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



mrd
5/1/04



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